

# STATE OF NEW YORK

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559

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT in relation to determining whether the state can claim federal financial participation for coverage of and payment for certain prescription digital therapeutics

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative finding and declaration. New Yorkers in recovery for substance and opioid use disorders and in treatment for mental  
2 health conditions are losing access to in-person treatment under the  
3 state's "stay at home" and social distancing orders as part of coronavirus pandemic mitigation efforts. In recent news reports, experts warn  
4 that the coronavirus pandemic may be "a national relapse trigger" for  
5 individuals in treatment for alcohol, cocaine, methamphetamine, marijuana, and heroin addiction. Prescription Digital Therapeutics (PDTs) are  
6 new, software-based disease treatments designed to directly treat  
7 disease, tested for safety and efficacy in randomized clinical trials,  
8 evaluated by the FDA, and prescribed by healthcare providers. These  
9 therapies are designed and tested much like traditional prescription  
10 drugs with one distinction: rather than swallowing a pill or taking an  
11 injection, patients are treated with software. Certain PDTs provide  
12 clinicians and patients with evidence-based remote treatment modalities  
13 to treat substance and opioid use disorders, mental health, and other  
14 diseases and conditions. However, there is no clear statutory benefit  
15 category to allow Medicaid coverage for PDTs. In light of the promise of  
16 PDTs for the treatment of patients with substance use and opioid use  
17 disorders during the coronavirus pandemic, this legislation would  
18 require that the New York state department of health seek guidance from  
19 the Centers for Medicare and Medicaid Services relative to a coverage  
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01006-01-1

1 and reimbursement pathway for PDTs, in order to accelerate access to  
2 such therapies for enrollees.

3 § 2. No later than 30 days from the effective date of this section,  
4 the New York state department of health shall request guidance from the  
5 Centers for Medicare and Medicaid Services to determine whether the  
6 state can claim federal financial participation for coverage of and  
7 payment for certain prescription digital therapeutics approved by the  
8 food and drug administration to treat substance use and opioid use  
9 disorders.

10 § 3. This act shall take effect immediately.